

From: JL Kottal
To: Microsoft ATR
Date: 1/25/02 8:19pm
Subject: Microsoft Settlement.

Hello,

I am sadly disappointed in the provisions of the Microsoft Settlement. It would appear that the DOJ proposal abrogated completely any responsibility to recommend punishment of a company that was found guilty, not once but twice. In doing so, the DOJ has wasted a lot of the taxpayer's money on a court case and settlement that will do no justice to those who looked to the DOJ for it.

There seems in the proposed settlement to be no punishment at all, and certainly nothing that would encourage Microsoft to change its business practices. In fact, since then, Microsoft has continued even more so its predatory practices: they have integrated Internet Explorer more tightly into their Windows operating system; their operating system plans for the future named .Net push much more dependency upon using their products; and their latest offering, Windows XP, misleads its users into thinking that they must register with their Internet provider company MSN to use the Internet.

If the DOJ thinks that their proposed settlement has stopped the Microsoft monopoly, then I urge their lead lawyer to call Dell, Gateway or almost any national-level computer manufacturer and ask to buy a computer without a Microsoft operating system on it. Almost without exception, the answer will be that this is not possible: that one must pay for some version of Windows, and that even to buy without an operating system at all and install an alternate system such as Linux is not possible. Until this changes, as far as I am concerned, then the Microsoft monopoly continues to be alive and stronger than ever.

This is only part of the problem with the settlement. As it is, the proposed settlement

- * does not take into account Windows compatible competing operating systems
- * contains many misleading, or far too narrowly defined provisions, especially in regard to Microsoft's programming application interfaces, in as much as it does not require release or forbids their use, or make clear which patents they use
- * does not require release of Microsoft Office documentation, allowing continued use proprietary formats, which are arbitrarily changed with each new version
- * fails to address the extremely restrictive license terms Microsoft uses that prevents any of their products from running on other operating systems

- * fails to stop Microsoft's retaliation against OEMs who ship personal computers without a Microsoft operating system or with a competing operating system
- * lacks an effective enforcement provision

I would like to see a new settlement that takes into account the above. Furthermore, I would like to see a substantial fine imposed upon Microsoft: the only thing that Microsoft seems to understand is the making of money at all costs. Why not punish them in a way that they would understand by imposing a \$15 billion fine (about 1/2 of their current operating reserve)?

As it is, the current proposed final judgment will simply allow, if not encourage, significant continuation of Microsoft's anticompetitive practices. As currently written, it is not at all in the public interest and should not be adopted without substantial revision.

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